

ESTTA Tracking number: **ESTTA256063**

Filing date: **12/18/2008**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	The Life is good Company
Granted to Date of previous extension	12/24/2008
Address	283 Newbury Street Boston, MA 02115 UNITED STATES

Attorney information	Thomas Kenney Pierce & Mandell, P.C. 11 Beacon Street Suite 800 Boston, MA 02108 UNITED STATES tom@piercemandell.com Phone:617-720-2444
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Applicant Information

Application No	77167875	Publication date	08/26/2008
Opposition Filing Date	12/18/2008	Opposition Period Ends	12/24/2008
Applicant	Jacobs Waters Associates, Inc. 908 Desale Street, S.W. Vienna, VA 22180 UNITED STATES		

Goods/Services Affected by Opposition

Class 025.

All goods and services in the class are opposed, namely: Clothing, namely, t-shirts, sweatshirts, button-down shirts, polo shirts, vests, sweaters, hats, socks, pants, shorts, jackets, tank-tops, skirts, dresses, ties, scarves, swimwear and underwear

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	2025737	Application Date	03/04/1996
Registration Date	12/24/1996	Foreign Priority Date	NONE
Word Mark	LIFE IS GOOD		
Design Mark			

Description of Mark	NONE
Goods/Services	Class 025. First use: First Use: 1994/06/01 First Use In Commerce: 1995/01/27 sportswear, namely, T-shirts, sweatshirts, shirts, hats, pants, and shorts

U.S. Registration No.	2826245	Application Date	10/02/2001
Registration Date	03/23/2004	Foreign Priority Date	NONE

Word Mark	LIFE IS GOOD
Design Mark	LIFE IS GOOD

Description of Mark	NONE
Goods/Services	Class 018. First use: First Use: 2002/06/21 First Use In Commerce: 2002/06/21 backpacks, dog leashes, cat leashes, dog collars, cat collars and luggage Class 024. First use: First Use: 2003/03/21 First Use In Commerce: 2003/03/21 bed blankets and towels Class 025. First use: First Use: 2002/01/30 First Use In Commerce: 2002/01/30 children's and baby clothing, namely shirts, pants, shorts, rompers, and pajamas, underwear, pajamas, and jackets Class 028. First use: First Use: 2003/03/12 First Use In Commerce: 2003/03/12 toys, namely plastic action figures, and plush balls

U.S. Registration No.	3235972	Application Date	06/28/2005
Registration Date	05/01/2007	Foreign Priority Date	NONE

Word Mark	LIFE IS GOOD
Design Mark	LIFE IS GOOD

Description of Mark	NONE
Goods/Services	Class 012. First use: First Use: 2001/11/07 First Use In Commerce: 2001/11/07 tire covers Class 019. First use: First Use: 2003/06/09 First Use In Commerce: 2003/06/09 non-luminous, non-mechanical signs made of wood; non-luminous, non-mechanical signs not of metal for use on walls and windows

	<p>Class 021. First use: First Use: 2002/06/19 First Use In Commerce: 2002/06/19 aluminum water bottles, sold empty; plastic drinking bottles, sold empty; stainless steel travel mugs</p> <p>Class 025. First use: First Use: 2002/11/06 First Use In Commerce: 2002/11/06 clothing, namely, sundresses, yoga wraps, and bandannas</p> <p>Class 028. First use: First Use: 2004/03/07 First Use In Commerce: 2004/03/07 nylon flying discs, for dogs</p> <p>Class 035. First use: First Use: 2001/05/03 First Use In Commerce: 2001/05/03 retail store services featuring clothing and accessories; on-line retail store services featuring clothing and accessories</p>
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Attachments	<p>76976269#TMSN.gif (1 page)(bytes)</p> <p>78660098#TMSN.jpeg (1 page)(bytes)</p> <p>opp-garbonzos.pdf (2 pages)(35471 bytes)</p>
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/tek/
Name	Thomas Kenney
Date	12/18/2008

STATEMENT OF OPPOSITION

1. Since at least as early as 1994, and continuously therefrom, Opposer The Life is good Company ("Life is good") and its predecessor have sold various products such as T-Shirts, hats, other clothing, stationery, flying discs, coffee mugs, *inter alia*, under the trademark "Life is good." The goods have been sold to retail stores and consumers directly by Life is good, through its exclusive licensee, or through its web site.

2. Since 1994, Life is good and its predecessor have continuously and pervasively utilized the "Life is good" trademark throughout the United States on products, on hang tags, displays, boxes, packaging and labels, at Life is good's website (www.lifeisgood.com), and in catalogs and other places.

3. In short, Life is good has invested substantial resources in promoting its products under the "Life is good" mark, and in developing national recognition of its "Life is good" mark. As a result, the "Life is good" mark is perceived as a distinctive indicator of Life is good as the source of its goods.

4. Life is good is the owner of the right, title and interest in nine (9) U.S. Registrations for "Life is good", including registration number 2,025,737 for "sportswear, namely T-shirts, sweatshirts, shirts, hats, pants, and shorts, " and three other U.S. registrations that cover goods in international class 025.

5. On or about May 2, 2007, Applicant Jacobs Waters Associates, Inc. filed the instant application for the mark "LIFE IS GOOD WITH ... BIG GARBONZOS." The Applicant seeks registration of the mark for a variety of clothing articles in international class 025.

6. The instant application is filed on an intent-to-use basis. Thus, Life is good is clearly

the senior user.

7. The registration of Applicant's mark would damage Life is good because the registration of Applicant's mark is likely to cause confusion, mistake, or deception among the consuming public as to the source or origin of the parties' respective goods and services, and to create a false belief that the Applicant and Opposer are affiliated.

WHEREFORE, the Opposer respectfully requests that the Board refuse registration of the subject application pursuant to 15 U.S.C. § 1052(d).